

IC 8-4.5-5

Chapter 5. Recreational Trails Program

IC 8-4.5-5-1

Purpose and administration

Sec. 1. (a) The recreational trails program is established.

(b) The purpose of the program is to provide funding and other support for the acquisition, construction, or improvement of recreational trails open for public use or trails that will be dedicated to public use upon completion.

(c) The department of natural resources shall administer the program.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-2

Grant eligibility

Sec. 2. (a) The following are eligible to receive a grant under this chapter:

- (1) A state agency.
- (2) A political subdivision.
- (3) A nonprofit organization.

(b) The following may not receive a grant under this chapter:

- (1) A private trail project.
- (2) A project for a private purpose.
- (3) A private business.
- (4) A developer.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-3

Duties of applicant

Sec. 3. (a) An applicant shall complete and submit an application as prescribed by the department of natural resources.

(b) An applicant may submit more than one (1) application in a state fiscal year.

(c) Two (2) or more eligible applicants may submit a joint application. A joint application must designate a lead applicant to serve as the principal contact with the department of natural resources.

(d) The department of natural resources may not consider an application under this chapter until the department determines that the requirements for approval of a recreational trail under IC 8-4.5-6 have been satisfied.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-4

Application

Sec. 4. (a) An application must contain the following information:

- (1) The information required by IC 8-4.5-6-3.
- (2) The applicant's name, mailing address, and telephone number.

(3) The name, mailing address, and telephone number of an individual who will serve as liaison with the department of natural resources.

(4) A time schedule for the total trail project with the applicant's written assurance of project completion as scheduled.

(5) An adequate justification for the project based on the project eligibility criteria in section 5 of this chapter and the evaluation criteria in section 11 of this chapter.

(6) A written assurance from the applicant that the total trail used to justify the project will be adequately maintained and made available for the intended public use for at least twenty (20) years after completion of the project, except as approved by the board.

(7) The amount of the grant requested from the fund. The application may offer a matching fund contribution larger than is required.

(8) A certified copy of the following:

(A) If the entire project will be located within a municipality, an ordinance adopted by the legislative body of the municipality under IC 8-4.5-6-4 that includes a consent to approval of the grant application.

(B) If clause (A) does not apply, an ordinance adopted by the legislative body of each county in which any part of the project will be located under IC 8-4.5-6-4 that includes a consent to approval of the grant application.

(b) An application that is considered but not funded in a fiscal year may be resubmitted for consideration in the next fiscal year.

(c) An applicant may submit a request for a time schedule adjustment. A time schedule adjustment may be approved by the department of natural resources if the project involves unusually complex studies, extensive real estate negotiations, extensive analyses for environmental clearances, complex planning for associated developments, or other compelling reasons.

(d) An applicant may withdraw an application at any time.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-5

Eligibility criteria

Sec. 5. A proposed project must meet all of the following eligibility criteria:

(1) The project must be part of a local, an areawide, a regional, or a statewide plan.

(2) The trail route must be designed in a reasonably safe manner and to allow enjoyment of scenic views or points of historical interest. The route may use:

(A) existing roads, streets, or parkways if the normal flow of motor vehicle traffic will not be hindered;

(B) abandoned railroad corridors;

(C) water corridors, such as river levees and canal tow-paths;

(D) utility corridors; or

- (E) new rights-of-way, if necessary.
- (3) The project must include a contribution of at least twenty percent (20%) matching funds. Matching funds must be from sources other than the program. Matching funds may not include other grants from state agencies or the provision of in kind services. The value of donated real property may be used to satisfy the matching fund requirement if both of the following apply:
 - (A) The real property is donated after the board's funding commitment.
 - (B) The value is based on a real estate appraisal acceptable to the department of natural resources. The appraisal is subject to review and approval by the department of natural resources after a funding commitment has been made.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-6

Permitted costs

Sec. 6. The following costs may be paid from a grant made under this chapter:

- (1) Real property acquisition costs, including appraisal costs and negotiation costs.
- (2) Trail surfacing, resurfacing, rehabilitation, modernization, upgrading, and reconstruction, including pavement repairs and overlays and shoulder widening and stabilization.
- (3) Initial trail construction, including grading, drainage, paving, and erosion control.
- (4) Bridge and culvert repair, modernization, replacement, or initial construction.
- (5) Roadway intersection and interchange improvements, including warranted traffic signals that are an integral part of the project.
- (6) Construction or improvement of rest areas, information centers, waysides, permanent interpretive displays, lighting, and restrooms, including the costs of utility connections that are an integral part of the project.
- (7) Design engineering and construction inspection costs directly associated with the project.
- (8) Storm drainage and storm sewer costs to the extent needed for draining the trail.
- (9) Utility relocation costs necessary for trail construction or improvement if the utility is not located on a public road.
- (10) Trail signs, fencing, landscaping, parking areas, and walkways.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-7

Prohibited costs

Sec. 7. The following costs may not be paid from a grant made under this chapter:

- (1) Any cost incurred before approval by the board of funding for a project.
- (2) Routine maintenance of a trail, bridge, culvert, fence, or sign.
- (3) Winter maintenance of a trail or bridge, including snow plowing, sanding, or salting.
- (4) Overhead and operating costs associated with a project, such as auditing, legal, and administrative costs.
- (5) Expenses associated with the preparation and submission of a project application.
- (6) Predesign engineering and planning expenses.
- (7) Utility costs other than those described in section 6 of this chapter.
- (8) Pavement markings, traffic signs, safety appurtenances, or lighting, except as an integral part of a trail project.
- (9) Purchase of office furnishings or equipment, construction equipment, or personal property.
- (10) Sanitary sewers or water mains, except as necessary for restroom construction.
- (11) General government expenses and expenses associated with the provision of any public service that are not otherwise eligible for project funding.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-8

Waiver of specified costs

Sec. 8. (a) Notwithstanding section 7 of this chapter, the board may grant a waiver from section 7 of this chapter for specified costs.

(b) An applicant must make a written request for a waiver under this section.

(c) If the board grants a waiver, the applicant may make the specified expenditure. Approval of a waiver does not imply or guarantee that a subsequent application will be approved.

(d) Unless an applicant requests an advance waiver and the request is approved before an expenditure, any costs incurred before a waiver is granted may not be reimbursed from a grant under this chapter.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-9

Waiver for acquisition of real property

Sec. 9. (a) Notwithstanding section 7(1) of this chapter, if there is extreme urgency involving real property acquisition, the board may grant an applicant's request for a waiver to acquire the real property immediately.

(b) A request for a waiver under subsection (a) must be in writing and include all of the following:

- (1) Justification for the urgency of the acquisition.
- (2) A description of the real property to be acquired.
- (3) A county map showing the location of the real property to

be acquired.
As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-10

Request for preconstruction costs

Sec. 10. (a) The board may grant an applicant's request for preconstruction project planning design and development costs.

(b) A request submitted under subsection (a) must be in writing.

(c) The board may not grant a request under subsection (a) if the total design and development expenditure exceeds fifteen percent (15%) of the total construction costs for the project.

(d) The board shall require adequate documentation of eligible costs before approving reimbursement under this section.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-11

Review and evaluation of applications

Sec. 11. (a) The board:

- (1) shall review each application;
- (2) may verify the contents of an application; and
- (3) may visit the trail site that is the subject of an application.

(b) The board shall evaluate each complete application on the basis of the following criteria:

- (1) Whether the predicted use of the trail justifies the construction and maintenance costs.
- (2) Need, in terms of the population to be served and existing trails in the area.
- (3) Compatibility with local, areawide, regional, or statewide plans.
- (4) The acceptability of the proposed trail to property owners.
- (5) The general acceptability of the proposed trail to the community at large.
- (6) Benefits of multiple uses and recreational opportunities.
- (7) Quality of the site.
- (8) Economic benefits to the local area.
- (9) Accessibility for persons with disabilities.
- (10) Interference with any existing public utility use.
- (11) Other criteria set by the board.

(c) The board shall determine the applicants to whom grants will be awarded.

As added by P.L.40-1995, SEC.3. Amended by P.L.158-1999, SEC.14.

IC 8-4.5-5-12

Funding commitments

Sec. 12. The board is solely responsible for all funding commitments and shall determine which projects are funded, subject to availability of money in the fund.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-13**Funding by board**

Sec. 13. (a) The board may approve, modify, or deny an application for funds.

(b) The board may fund all or part of a project.

(c) The board may condition funding upon the applicant's adherence to a time schedule or to fulfillment of an agreement.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-14**Unexpended funds**

Sec. 14. The board is not required to commit all funds available during a fiscal year. The board may reserve unexpended or repaid money for the next programming cycle or for anticipated present or future project needs or for other contingencies.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-15**Limitations on reimbursement**

Sec. 15. Project costs that exceed the amount granted by the board may not be reimbursed from the fund or the state general fund. Reimbursement of project costs is limited to the percentage match approved by the board and actual eligible project costs incurred.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-16**Project agreement**

Sec. 16. (a) After the board has approved funding for a project, the department of natural resources and the applicant must execute a project agreement.

(b) Except as provided in subsection (d), the agreement shall specify the responsibilities for project planning, design, real property acquisition, contracting, construction and materials inspection, and documentation and the criteria for each.

(c) The agreement shall specify the overall funding level approved and contain an estimated budget for eligible work items.

(d) The agreement shall specify that the department of natural resources shall assume control of the trail if the project fails because the applicant breaches the agreement.

(e) An entity having jurisdiction over a road shall administer a project located on a road. The entity by agreement may delegate part or all of this responsibility.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-17**Reimbursement of actual project costs**

Sec. 17. (a) Actual eligible project costs incurred as specified in the agreement, not to exceed the amounts authorized by the project agreement, must be reimbursed.

(b) Project expenditures incurred after the board has made a

funding commitment but before execution of the agreement may be reimbursed if prior written authorization is obtained from the department of natural resources and a project agreement is subsequently executed. However, reimbursement may not be paid until the project agreement has been executed.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-18

Real property acquisitions

Sec. 18. (a) Real property may be acquired by lease, by easement, or in fee simple.

(b) If real property is acquired in fee simple, title must be taken in the name of the state.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-19

Audits

Sec. 19. The department of natural resources may audit all project costs incurred for compliance with the agreement, including costs that are part of the matching contribution.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-20

Revocation or repayment of funds

Sec. 20. The board may revoke funding commitments or seek repayment of funds loaned or granted, or take both actions, if any of the following are true:

- (1) The terms of the project agreement have not been fulfilled.
- (2) The department of natural resources finds that the application contained inaccuracies, omissions, errors, or misrepresentations.
- (3) The time schedule for project completion was misrepresented or has not been maintained.
- (4) The authority fails to comply with section 4(a)(7) of this chapter.

As added by P.L.40-1995, SEC.3.

IC 8-4.5-5-21

Abandoned projects

Sec. 21. (a) If a project is completed and later abandoned, the department shall inform the board as soon as is reasonably possible.

(b) After the board receives notification under subsection (a), the board shall consider all possible uses by the state, including continued abandonment of the corridor.

As added by P.L.40-1995, SEC.3.